

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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KAY YVONNE PEALO,

Plaintiff,

3:17-CV-0149  
(GTS/WBC)

v.

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

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APPEARANCES:

OF COUNSEL:

OLINSKY LAW GROUP

Counsel for Plaintiff

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Syracuse, New York 13202

HOWARD D. OLINSKY, ESQ.

SOCIAL SECURITY ADMINISTRATION  
OFFICE OF GEN. COUNSEL—REGION II

Counsel for Defendant

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New York, New York 10278

LORIE E. LUPKIN, ESQ.

GLENN T. SUDDABY, Chief United States District Judge

**DECISION and ORDER**

Currently before the Court, in this Social Security against filed by Kay Yvonne Pealo (“Plaintiff”) against the Commissioner of Social Security (“Defendant” or “Commissioner”), is the Report-Recommendation of United States Magistrate Judge William B. Mitchell Carter, recommending that Plaintiff’s motion for judgment on the pleadings be granted, that Defendant’s motion for judgment on the pleadings be denied, that the Commissioner’s decision denying Plaintiff Social Security benefits be reversed, and that this matter be remanded to the Commissioner of Social Security pursuant to sentence four of 42 U.S.C. § 405(g). (Dkt. No. 16.)

Objections to the Report-Recommendation have not been filed and the time in which to do so has expired. (*See generally* Docket Sheet.)

After carefully reviewing all of the papers herein, including Magistrate Judge Carter's thorough Report-Recommendation, the Court can find no clear error in the Report-Recommendation.<sup>1</sup> Magistrate Judge Carter employed the proper legal standards, accurately recited the facts, and correctly applied the law to those facts. (Dkt. No. 16.) As a result, the Report-Recommendation is accepted and adopted in its entirety; Plaintiff's motion for judgment on the pleadings is granted; Defendant's motion for judgment on the pleadings is denied; the Commissioner's decision denying Plaintiff Social Security benefits is reversed; and this matter is remanded to the Commissioner of Social Security for further proceedings pursuant to sentence four of 42 U.S.C. § 405(g).

**ACCORDINGLY**, it is

**ORDERED** that Magistrate Judge Carter's Report-Recommendation (Dkt. No. 16) is **ACCEPTED** and **ADOPTED** in its entirety; and it is further

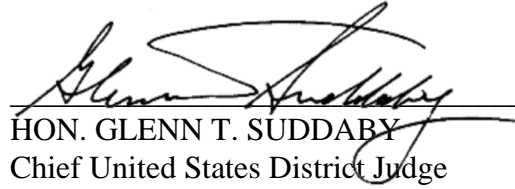
**ORDERED** that Plaintiff's motion for judgment on the pleadings (Dkt. No. 9) is **GRANTED**, Defendant's motion for judgment on the pleadings (Dkt. No. 15) is **DENIED**, the Commissioner's decision denying Plaintiff Social Security benefits is **REVERSED**, and this

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<sup>1</sup> When no objection is made to a report-recommendation, the Court subjects the report-recommendation to only a clear error review. Fed. R. Civ. P. 72(b), Advisory Committee Notes: 1983 Addition. When performing such a "clear error" review, "the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." *Id*; *see also Batista v. Walker*, 94-CV-2826, 1995 WL 453299, at \*1 (S.D.N.Y. July 31, 1995) (Sotomayor, J.) ("I am permitted to adopt those sections of [a magistrate judge's] report to which no specific objection is made, so long as those sections are not facially erroneous.") (internal quotation marks and citations omitted).

matter is **REMANDED** to the Commissioner of Social Security for further proceedings under sentence four of 42 U.S.C. § 405(g).

Dated: November 28, 2017  
Syracuse, New York



HON. GLENN T. SUDDABY  
Chief United States District Judge